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Department of Revenue

OFFICE Board of Revenue

STATION Madras.

Mis No. 1993

Dated 19-7-38

A. No

Pages in the file

(SUBJECT.)

Village Officers - (South Kanara).

Training Class - Kadaram - Registration of trainees - Cancellation of the order passed - Instructions issued

R P48 A 3832

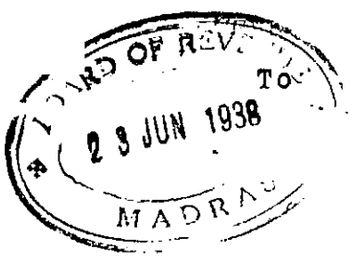
Ref.A1-2360/38. South Kanara Collector's Office,

Mangalore, 18th June 1938.

From

Sri Rao Bahadur M. V. Vellodi, B.A.,

Collector of South Kanara.



To

The Secretary to the Board of Revenue,

M a d r a s.

Sir,

Village Officers - (South Kanara) - Puttur Taluk - Shisila Turf - Karnam - orders of registration of minors - Proposal of cancellation on ground of fraud - Instructions solicited.

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I beg to solicit the Board's order in the following case.

2. One Yeliya Subraya was the permanent Shanbhogue of Shisila Turf, Puttur Taluk. He died in 1915 leaving behind no ostensible heirs except a widow. One Anantha Kedilaya claimed the Shanbhogue's post in favour of his minor son Rama krishna tracing his own descent from the great grand-father of the said Subraya. As there were no opposing claimants, the Tahsildar recommended the registration of minor Ramakrish son of Anantha Kedilaya to the Shanbhogue's post and the Reve Divisional officer approved of it in his Proceedings, Dis.No. 1281/D/15, dated 8.10.1915. Minor Ramakrishna having died issueless, his step brother Dasa son of the said Anantha Kedilaya by his second wife was registered as minor in his place in Revenue Divisional officer's Proceedings, D.Dis. 859 D/Rev.1921, dated 19.10.1921. On this occasion also he gave the same statement of genealogy.

W 17-18 (W)

W 20 (W)

W 18 (Q)

3. In 1927, there was a petition filed by one Subraya Yedapadithaya bringing to notice that the property owned by Yelia Subraya was liable to escheat to Government as he had left no heirs except his widow Padmavathi and that Anantha

W 1 (M)

Kedilaya with the evil intention of defrauding the Government was creating documents &c. as evidence of his claim as the reversioner of Yelia Subraya. In the enquiry held into this petition it was found that Anantha Kedilaya was not in any way connected with the family of the deceased Shanbhogue Yelia Subraya nor had he any claim to the deceased's property and that the property was liable to escheat to Government after the death of the widow Padmavathi who is still living. It was therefore proposed to escheat the property to Government on the widow's death and in this office Proceedings, R.Dis.8718/27, dated 20.3.1928 the Deputy Tahsildar of Beltangadi was directed to submit annual reports whether the widow was living.

4. In his report, Ref.1757/36-3, dated 27.10.1936 the Deputy Tahsildar brought to notice that the said Anantha Kedilaya had managed to get a decree in 1932 declaring him as the nearest reversioner to the deceased Yelia Subraya in O.S. No.74 of 1929 on the file of the District Munsif of Puttur. I obtained a certified copy of the judgment in the said suit and I found from its perusal that Anantha Kedilaya working behind the screen managed to get the decree in his favour in the said suit in collusion with the deceased's Subraya's widow, Padmavathi (1st Defendant in the suit) who while contesting the suit originally in her written statement did not choose to contest it at the trial stage and allowed herself to be treated exparte. Moreover, the judgment showed that the District Munsiff was led to believe that the escheat proceedings had been dropped by the Government.

5. The decree, of course, will not be binding on the Government as it was not a party to the suit. But, in view of the apparent future interest that the Government have in the matter I consulted the Government Pleader with a view to find out whether any appeal against this decree should be filed now. The Government Pleader has given his opinion that the question has to be considered by the Government when all the persons

who are entitled to hold the property die and in this case, - the widow.

6. Apart from this, there was against the Government the fact of the registration by the Revenue Divisional Officer of the two minor sons of Anantha Kedilaya. No doubt, orders were passed by the Revenue Divisional Officer on both the occasions on the mere authority of the statement given by Anantha Kedilaya and so long as these orders were allowed to stand, I thought that there would be some difficulty in ------ repudiating the heirship when the actual escheat proceedings are stated on the death of the widow. I therefore proposed to cancel these orders which came to be passed on account of fraud and misrepresentation of facts and issued notice to that effect to the said Anantha Kedilaya and his son Dasa alias Subraya. In response to the notice the Vakil who appeared on their behalf contended that on account of the distinct finding in the judgment in O.S.74 of 1929 referred to above that Anantha Kedilaya is the next reversioner, a cancellation of the Revenue Divisional officer's order would not be justifie

7. There seems to me to be some substance in this ------ argument. The decree is of a duly constituted Court of law and as such, has to be respected by Government as long as it has not been set aside in appeal. I feel therefore some doubt whether I will be justified in cancelling the Revenue Divisional officer's order as long as this decree stands. I therefore solicit the Board's instructions whether (1) it will be necessary to cancel the Revenue Divisional officer's orders now and if so, whether it can be done in the light of the ---- decree mentioned above and (2) whether it will not be desirable to perfer an appeal now itself seeking a cancellation of the decree. The widow is only 38 years of age and normally the escheat proceedings are likely to be started in the very near future. In these matters however Government have to look ahead.

8. Both the registered minors did not actually work as

Shanbhogues. The 1st registered minor Ramakrishna died before he attained majority. The 2nd registered minor Dasa alias Subraya failed to qualify himself and join within 3 years of attaining majority and thus forfeited his post as ordered by the Revenue Divisional officer in his Proceedings, D.Dis.No.8593/37, dated 19.12.1937. A third minor son has now been put forward by Anantha Kedilaya for registry as Shanbhogue; but I have asked the Revenue Divisional officer not to make any fresh appointment until this matter is finally settled.

The connected files as noted in the margin are enclosed.

1. Rev. Divl. officer's Dis.No.1281/D/Rev:15.
2. " " 859/D/Rev.21.
3. " " 8593/37.
4. Huzur R.Dis.8718/27.
5. " " 1892/37.

For Collector.

No. 177

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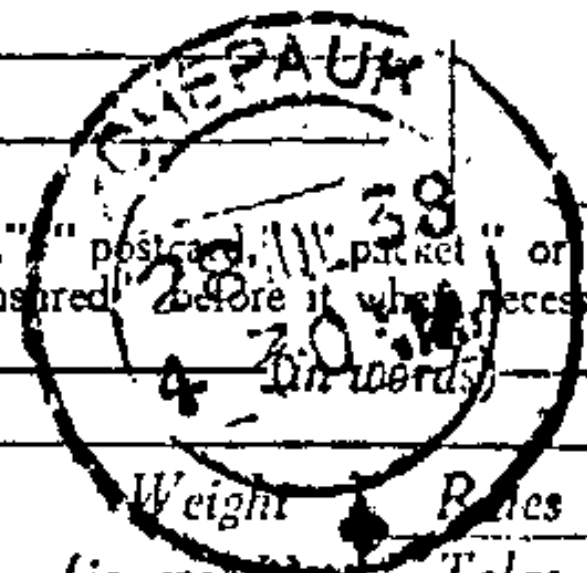

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A.S.(R.R)

M2C-A.H

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SUBJECT :— Village officers - (South Kanara) - Puttur Taluk - Sirsila village - Karnam - Registration of minors - Cancellation on the ground of fraud - Instructions issued.

READ AGAIN ____, dated ____ 19____.

cf Letter from the Collector of South Kanara Reg A1 - 2360/38 D

" " ____ " ____ 19____.

D/18-6-38

READ *ALSO* :—

No. ____ From the ____ No. ____, dated ____ 19____.

" ____ " ____ " ____ " ____ 19____.

" ____ " ____ " ____ " ____ 19____.

Order ~~Ms.~~ / Resolution ~~Rout.~~ No. 1993, dated 20-7-1938.

VSawhney 9738

NW97-42 (N)

NW2-9NF

The Collector is informed that as the Govt were not a party to G.S. No 74 of 1929 on the file of the District Munsiff, Puttur, the decree in that suit does not bind them. The Govt can start escheat proceedings only on the death of the widow of Yeliya Subraya and any omission or commission to which the officers of the Govt might have been a party would not affect the escheat proceedings when they are instituted as the whole question will have to be enquired into afresh

and the respective rights of the parties determined.

As regards the other point raised by the Collector, the Board considers that it would be sufficient if the claims of the third minor now set up to the office by Ananthakadilaya are definitely disallowed and a proper appointment made.

18-7-38.

18738

1

W 3 NF

Note file

M2
A.S.(R.R).

Village officers - (South Kanara) - Puttur taluk - Shisila village - Karnam Registration of minors - Cancellation on the ground of fraud - Instructions solicited.

WW1-4cf

A.No.3832/38 pp. 1-4 c.f.

To A.S (L.R)

Non hereditary and non-staturory

Please see the Collr's letter at

WW1-4cf pp. 1-4 c.f.

On the death of the last office holder in 1915 without heirs, one

WW1-2cf Anantha Kedilaya misrepresented that he was the next legal heir to him and had the karnam's office registered in his name. Since that time two minor sons of the aforesaid Anantha Kedilaya have succeeded to the office one after the other. The first died in 1921 without issues, the second forfeited the office

(V) in 1937 for failure to qualify himself within 3 years of attaining majority and a third minor has now been put forward for registry. It has since bee discovered that the registry of the son of Anantha Kedilaya had been brought about by fraud played upon the Revenue

WW1-2cf Department by misrepresenting that Anantha Kedilaya was the legal heir to the last office holder while in fact he had absolutely no relationship with him It has also been found that the propert of the last office holder is liable

WW1-2, WW1-2cf to escheat to the Govt. after the death

of his widow. The Collr. apprehends that when the actual escheat proceedings are started on the death of the widow, the registration by the R.D.O. of the two minor sons of Anantha Kedilaya may be construed to amount to a recognition of the reversionary right of Anantha Kedilaya and his sons to the last holder's property and solicits instructions as to whether it would not be desirable to cancel the R.D.O's orders registering the minors to safeguard the future interests of Govt. The Collr. also brings to notice another complication. In O.S. No. 74/29 Puttur D.M.C. Anantha Kedilaya was found to be the next reversioner of Subraya and this decree, which had not been appealed against might act as res judicata. The local Govt. Pleader's opinion on both the points raised by the Collr. is contained in his letters dated 16-8-37 and 7-10-37 at p.47-48 and pp. 53-54 of (N). He considers that the registry of the sons of Anantha Kedilaya to the village office will not prevent the escheat of the properties as at the time escheat proceedings are instituted the whole question will have to be enquired into afresh and the rights settled.

W N 37-42 (N)

W N 47-48 & 53-54 (N)

As regards the other point the Govt. Pleader says that as the Govt. were not a party to the suit and as the appeal time had expired long ago nothing could be done now. The Govt. can start escheat proceedings only on the death of the widow and as implied in the local Govt. Pleader's opinions any omission or commission to which the officers of the Govt. might have

been a party would not affect the escheat proceedings which might be taken on the death of the widow. The system of registry of minors in S. Kanara has however no legal sanction i.e. covered by Act III of 1895 and being purely an administrative action can be cancelled if, as in the present case, fraud or other serious irregularity is proved. But it need not be done in the present case just to tide over a prospective difficulty. It seems sufficient if the claims of the 3rd minor now set up by Anantha Kedilaya are definitely disallowed and fresh appointment ordered to be made. The Collector may be informed accordingly.

28-6-38.

12.7.38

A.S.(L.R)

A.S.(L.R)

Draft submitted for approval

18-7-38.

18/7/38

AS(Cdy

CIRCULATION CHECK SLIP.

B.P. No. M&S 1993

Dated 20-7-38.

Single Member

Two Members

Full Board.

	1.A.	A.D.S. & L.R.,	A.S. L.R.,	A.S. Sett.	A.S. Sep. Rev.,	J.S.	Secy.	M.3.	M.2.	M.1
(1) Open file seen by		✓			✓					
(2) Final draft seen by			✓							
(3) Now circulated to										
(4) Initials.										

4 C
1858

**~~Secretary~~
~~Joint~~ Secretary

Passed for record.

A
1828

A.S. (L.R.,)

~~A.S. (Sett.,)~~

~~A.S. (Sep. Rev.,)~~

~~A.D.S & L.R.,~~

~~J.A.~~

** Note - Entries not required to be scored out.

MSR/NA